

Nova Law Review

Volume 12, Issue 3

1988

Article 10

Local Public Health Perspectives on the Acquired Immune Deficiency Syndrome (AIDS) Epidemic

Charles Konigsberg Jr, M.D., M.P.H.*

*

Copyright ©1988 by the authors. *Nova Law Review* is produced by The Berkeley Electronic Press (bepress). <https://nsuworks.nova.edu/nlr>

Local Public Health Perspectives on the Acquired Immune Deficiency Syndrome (AIDS) Epidemic

Charles Konigsberg Jr, M.D., M.P.H.

Abstract

This article focuses on the perspectives and roles of local public health officials dealing with a wide variety of aspects of the AIDS epidemic, including epidemiology, surveillance, public health control measures, community organization and patient care and treatment networks.

KEYWORDS: AIDS, public, health

Local Public Health Perspectives on the Acquired Immune Deficiency Syndrome (AIDS) Epidemic

Charles Konigsberg, Jr., M.D., M.P.H.

Martha F. Barrera, J.D.

This article focuses on the perspectives and roles of local public health officials dealing with a wide variety of aspects of the AIDS epidemic, including epidemiology, surveillance, public health control measures, community organization and patient care and treatment networks. This paper includes a survey of Florida public health laws and regulations and current policies pertaining to AIDS and HIV infection. The paper will deal with current status of local public health responses to the AIDS epidemic and pose some challenges still to be met in the future. The importance of legal interaction in public health when formulating policies and responding to the AIDS problem will be emphasized.

I. Introduction

The AIDS epidemic surely presents one of the most profound challenges to public health in many years. Those of us whose professional education and careers have taken place in the years since the major infectious diseases of the past such as typhoid, diphtheria, poliomyelitis, and smallpox have been controlled or even eliminated have not had to contend with a persistent major infectious disease problem in the community other than sexually transmitted diseases or tuberculosis. Even these diseases are treatable and controllable by known existing therapies and intervention strategies.

The response to the AIDS epidemic has required the health care establishment to deal with everything from basic research to health and social services and legal issues. While a great deal has been learned about the AIDS and Human Immune Deficiency Virus (HIV) disease process including the causative agent and the means of transmission, the public health response has been criticized.¹

1. D.M. Fox: AIDS and the American Health Polity: The History and Prospects of a Crisis of Authority. 1986 64, Supplement 1:7-33.

Kuller, L.H., Kingsley, L.A.: The Epidemic of AIDS: A Failure of Public Health Pol-

As local health officials in a high incidence area for AIDS, we have become increasingly immersed in a number of aspects of the AIDS situation. This article explores the impact of AIDS on the community from the perspective of a local public health agency which has been actively involved in responding to the epidemic.

It is useful to describe the unique public health system operated in Florida in order to set the context of our involvement.

Florida's public health system is designed as a joint cooperative effort between state and local government in recognition of the "unique partnership which exists between the state and its counties in meeting the public health needs of the state"² with the the state as the lead. The agency responsible for meeting Florida's public health needs is the Department of Health and Rehabilitative Services (HRS), Florida's largest state agency.

The public health mission of HRS is to promote, protect, maintain and improve the health and safety of all Florida citizens and visitors.³ HRS is responsible for the administration, planning, development, coordination and operation of all of the state's health programs as well as all of the state's social welfare programs.⁴ The agency is headed by the Secretary of the Department of HRS who is appointed by the Governor.⁵ The Secretary appoints a Deputy Assistant Secretary of Health who also serves as the State Health Officer.⁶ The State Health Officer is responsible for all HRS health programs. He also provides professional supervision to the county public health units.⁷

HRS is divided into 11 service districts each headed by a District Administrator who is appointed by the HRS Secretary and who has direct line authority over District health program offices, county public health units and all other HRS programs assigned to the district.⁸ There are 67 public health units in Florida. HRS District 10 comprises all of Broward County.⁹ The Broward County Public Health Unit is

icy. MILBANK QUARTERLY 1986 64, Supplement 1: 56-78. Shilts, Randy: *And the Band Played On: Politics, People, and the AIDS Epidemic*. 1987. St. Martin's Press, New York.

2. FLA. STAT. § 154.001 (1985).

3. FLA. STAT. ANN. § 20.19(1) (West Supp. 1987).

4. *Id.* at § 20.19(4)(a) (West Supp. 1987).

5. *Id.* at § 20.19(2)(a) (West Supp. 1987).

6. *Id.* at § 20.19(4) (West Supp. 1987).

7. *Id.* at § 20.19(4)(a)(8)(a) (West Supp. 1987).

8. *Id.* at § 20.19(5) (West Supp. 1987).

9. *Id.*

the only county public health unit in District 10.

The Broward County Public Health Unit (BCPHU) is the result of the statutorily designed cooperative, coordinated effort between Broward County and the state, through its agency, HRS. The services performed by the BCPHU are funded through a combination of federal, state, and county funds.¹⁰ A contract between HRS and Broward County exists under which the county and state fund specific services.¹¹ Under the terms of this contract the county provides county facilities and equipment for the use and benefit of the health unit. The health unit provides public health, personal health and primary care services¹² and enforces county environmental ordinances such as those relating to the control of sanitary nuisances¹³ and the inspection of food service facilities.¹⁴ The personnel of the BCPHU are HRS employees.¹⁵ The County Public Health Unit Director, who also serves as the District Health Program Supervisor, is appointed by the HRS Secretary with the concurrence of the Board of County Commissioners.¹⁶ As part of the Department of HRS, the health unit has available at its disposal not only the county's resources, but also those of the state and specifically the expertise and guidance of the state health office. Further, coordination with other HRS programs such as Medicaid, Licensure and Certification, Mental Health, Aging and Adult Services, Children, Youth and Family Services, and various public assistance programs, is facilitated.

The services performed by the Broward County Public Health Unit, through seven (7) health centers, consist of a combination of traditional public health services, personal health services and primary care.¹⁷ These services operate under state required written standards,¹⁸ but are delivered through the county public health unit. In Broward, these services include everything from inspection and issuance of septic tank construction permits, inspection of food service facilities, communicable disease control, maternal and baby care, and immunizations, to the provision of primary care services to children and adults who are ill

10. *Id.* at § 154.02 (West Supp. 1987).

11. *Id.* at § 154.001 (West Supp. 1987).

12. *Id.* at § 154.01 (West Supp. 1987).

13. 14-67, BROWARD COUNTY CODE.

14. BROWARD COUNTY, FLA., CODE § 15-19 (1987).

15. FLA. STAT. ANN. § 154.04(2) (West Supp. 1987).

16. *Id.* at § 154.04(1)(b) (West Supp. 1987).

17. *Id.* at § 154.01 (West Supp. 1987).

18. *See, e.g.*, HRS Memorandum 150-3, Oct. 1, 1987.

including those who are suffering from AIDS.

II. Impact of AIDS in the Community

As of March 28, 1988, 57,575 total cases of Acquired Immune Deficiency Syndrome have been reported in the United States. Nearly half of these cases have been reported from just two states, New York and California. Florida ranks third with 4058 cases or 7.0% of the nation's total, but with 12.5% of the nation's total pediatric cases. AIDS continues to most heavily impact homosexuals, bisexuals and intravenous drug users, although heterosexual cases are increasing. 56.0% of the total reported cases in the United States have died, and 60.7% of Florida cases have died.¹⁹

The U.S. Public Health Service (PHS) estimates that the cumulative total of AIDS cases at the beginning of 1991 will range between 155,000 to 220,000 cases and that 96,000 to 180,000 will be alive at some time during that year. It is also estimated that approximately 1,500,000 persons are currently infected with the HIV virus.²⁰ It is these persons, already infected, that will constitute the major impact of AIDS over the next several years, as more and more of them become symptomatic and develop full blown AIDS.

In Florida it is likely that 160,000 to 200,000 persons are infected with the HIV virus in 1987, with the number likely to grow to 475,000 by 1991. Florida may have as many cases of AIDS in 1991 as there were in the entire United States by the end of 1986.²¹

Locally, Broward County has reported 717 cases of AIDS since the beginning of 1983.²² AIDS is particularly a Southeast Florida problem, with two thirds of the State's cases reported in Dade, Broward and Palm Beach Counties.

AIDS is having an increasing impact on the nation's health care system. The first 10,000 cases of AIDS utilized 1.6 million hospital days and cost \$1.4 billion. Economic losses from AIDS can be documented by the loss of 8387 years of work with a \$4.8 billion impact in

19. Centers for Disease Control, Mar. 28, 1988.

20. Public Health Service Plan for the Prevention and Control of AIDS and the AIDS Virus, Report of the Coolfont Planning Conference, June 4-6, 1986, United States Public Health Service.

21. AIDS Policy Guidelines and Recommendations, Sept. 1987 Draft, Florida Association of Health Officials Task Force on HIV Infection and AIDS.

22. Florida Dept. of HRS, Feb. 26, 1988.

the first 10,000 cases of AIDS in the United States.²³ The average costs for inpatient care from the time of diagnosis until death range from \$50,000 to \$150,000 per patient.²⁴ The PHS estimates the direct health care costs of persons with AIDS will be between \$8 and \$16 billion in 1991.²⁵ The inpatient burden of AIDS will likely fall disproportionately upon public hospitals since many persons with AIDS become indigent. In Broward County, for example, in 1986, one tax assisted hospital which cared for the majority of AIDS patients had total tax and bad debt charges attributed to AIDS of approximately \$5 million.²⁶

Physicians who care for AIDS patients, and there are only approximately 14 in Broward County, are increasingly burdened and the need for public facilities for outpatient care grows. Local health departments have seen that AIDS requires a major response, yet funds for prevention have not kept pace with need. For example, at the start of the 1987-88 fiscal year, the Broward County Public Health Unit had only \$83,000 available for AIDS activities not related to direct patient care.

A devastating disease like AIDS requires considerable social and other support services. Persons with AIDS often lose their income and their health insurance, therefore requiring a variety of assistance including income, housing and transportation.

Worksite issues in relation to AIDS continue to be raised even though, with the exception of health care settings, transmission of the AIDS virus would not be expected in those casual contact situations. Employers have fired employees with AIDS only to find that they have neither public health nor legal grounds to do so.²⁷ Public health officials

23. A.M. Hardy, et al: The Economic Impact of the First 10,000 Cases of Acquired Immunodeficiency Syndrome in the United States. *Journal of the American Medical Association*, 255, no.2, 209-211, Jan. 10, 1986.

24. *Confronting AIDS: Directions for Public Health, Health Care, and Research*, Excerpts from a report by the Institute of Medicine and National Academy of Sciences. *Issues in Science and Technology*, Winter 1987, 92-101.

25. Coolfont Report. (same as ref. #20)

26. Hospital Administrator of Broward General Medical Center.

27. For cases where AIDS was held to be a protected handicap under state anti-discrimination statutes, and therefore, subject to anti-discrimination laws: *Shuttleworth v. Broward County Office of Budget Policy*, Florida Commission on Human Relations, FCHR 85-0624 (April 7, 1986). (AIDS is a protected handicap), *Shuttleworth v. Broward County*, S.D. Fla. 1986, No. 85-6623-Civ., 41 Fair Empl. Prac. Cases (BNA), 406 (So. Fla. July 8, 1986). (Exhaustion of remedies not required), *Racine Education Association v. Racine Unified School District*, Wisc. Lab. Human Rels. ERD Case No. 8650279, (April 30, 1986); 98 BNA DAILY LABOR REPORT E-1 (May 21, 1986);

have tried to discourage employers from testing prospective employees. Additionally, health cards have been proposed for food handlers, even though these cards are not effective for preventing diseases which are foodborne, much less for controlling diseases, such as AIDS, which are not foodborne. Health care settings have been dealt with extensively by the CDC.²⁸

Of all the aspects of AIDS in the community, none produces as emotional a response as does the situation of a child with AIDS, or testing positive for the AIDS antibody. We have all read about the child in the school in Indiana or the situation in Arcadia, Florida. One of the authors (Konigsberg) has had the experience of facing an upset crowd of parents and teachers in a local school. The Centers for Disease Control has indicated that most children with AIDS or infected with the AIDS virus can attend school in normal classroom settings.²⁹ All major professional groups agree on this point, as does the Florida Department of Education.³⁰

III. Public Health Control of AIDS in Florida

Traditional public health measures including surveillance of cases, reporting, medical isolation, testing and case contact tracing have been utilized in response to the AIDS epidemic. However, the efficacy of certain of these measures is questionable because the infection has a long and variable incubation period and because there exists no "magic bullet" (such as penicillin is to syphilis), to interrupt the chain of infection. The public may unrealistically expect stronger measures than are justified by existing public health rationale or by what is currently practical.

(AIDS is a protected handicap) California Dept. of Fair Employment & Housing vs. Raytheon (Complainant Chadbourne) FEH (MSN, Case FEP 83-84 LI 0310 p (Feb. 5, 1987); AIDS protected handicap, Cronan v. New England Telephone Co., Ca. No. 80332 (Mass. S. Ct., Suffolk County, August 15, 1986); AIDS qualifies as a protected handicap.

28. Recommendations for Prevention of HIV Transmission in Health Care Settings. Morbidity and Mortality Weekly Report vol. 36, No. 2S, Centers for Disease Control, Aug. 21, 1987.

29. Education and foster care of children infected with human T-lymphotropic virus type III/Lymphadenopathy-associated virus. Morbidity and Mortality Weekly Report 34:517-21, Centers for Disease Control, Aug. 30, 1985.

30. Florida Dept. of Education, memo to District School Superintendents, Guidelines for District AIDS Policies and Procedures, Oct. 14, 1987.

Protecting the confidentiality of persons with AIDS or those who test positive for the antibody is one of the major issues brought about by this epidemic. Since the use of voluntary testing for the AIDS antibody is one of the most effective public health preventive methods for encouraging modification of high risk behavior, preservation of the privacy interests of those who are tested is critical. The disclosure of the fact an individual has AIDS or tests positive for the HIV antibody may subject that individual to social censure, embarrassment or discrimination. "AIDS, or suspicion of AIDS, can lead to discrimination in employment, education, housing, and even medical treatment."³¹ However, there may be circumstances where legitimate public health reasons would require use of traditional public health measures and the release of such potentially damaging information. Preservation of confidentiality and protection of the public's health leads to a balancing act with which any public health agency must deal on a daily basis.

A. *Powers of the Department to Control the Spread of Communicable Disease*

Florida law provides broad police powers along with the authority to control communicable diseases. Traditional public health control measures include: 1) case reporting, surveillance and investigation; 2) contact investigation and notification; 3) testing and treatment; 4) quarantine; and 5) sanitary practices, public health nuisances and infection control.

The Department of HRS has broad statutory powers to protect and preserve the public's health. Specifically listed among those powers and duties, is the power to enforce laws relating to the public health, and the power to adopt, promulgate, repeal, amend and enforce rules consistent with said laws.³² Among matters sought to be enforced and regulated are control of communicable diseases, quarantine, sanitary practices and public health nuisances, as well as matters relating to the "general health of the people of Florida."³³

31. See *South Florida Blood Service, Inc. v. Rasmussen*, 467 So. 2d 798, 800 (Fla. 3rd Dist. Ct. App. 1985) (citing Mahuty, *A Legal Emergency Brewing Over AIDS*, NAT'L L. J. 1 (1984); Pagano, *Quarantine Considered for AIDS Victims*, 4 CAL. LAW 17 (1984)), *aff'd* *Rasmussen v. South Florida Blood Service, Inc.*, 500 So. 2d 533, 537 (Fla. 1987).

32. FLA. STAT. §§ 381.031, .111 (1985).

33. FLA. STAT. § 381.061(2) (1985).

1. Case Reporting, Surveillance and Investigation

AIDS, that is, the disease meeting the CDC case definition, is reportable now in all states, but other manifestation of HIV disease, including asymptomatic persons who are HIV antibody positive are reportable only in a few states and specifically not in Florida.³⁴ While this type of limited reporting has been useful in tracking the epidemic, it has not allowed public health officials to truly understand the extent and pattern of HIV infection in their communities. One alternative being tried now is to test sample communities or specific groups on a voluntary basis solely to gain aggregate data and not to institute specific measures regarding individuals. It is likely that expanded reporting is going to be necessary in order to target intervention and clinical programs.

In 1983, AIDS was included in the list of communicable diseases that must be reported to HRS under the direction of the State Health Officer.³⁵ In 1986 and 1987 AIDS, ARC and HIV infections were designated as sexually transmissible diseases (STDs).³⁶ Reporting of AIDS cases under the 1986 Sexually Transmissible Disease Act is limited to physician reporting and includes only physician diagnosed cases of AIDS or ARC based upon diagnostic criteria from the Centers for Disease Control.³⁷ Thus, in Florida, there is no requirement for reporting of HIV infection or seropositivity to the HIV test.³⁸

Under the rules promulgated pursuant to the 1986 STD Act only those physicians who make a diagnosis or treat a case of AIDS must report it to the county public health unit. Reporting must be done within two (2) weeks of diagnosis, on a form furnished by HRS, which must be submitted in a sealed envelope marked confidential.³⁹ Those who fail to report are subject to civil penalties of up to \$500.00 for each offense.⁴⁰

34. FLA. STAT. § 384.25; 10D3.062, FLA. ADMIN. CODE ANN. 10D3.097-.099 (1987).

35. FLA. STAT. § 381.231; HRSM 150-30, Section 6-1, February, 1987; FLA. ADMIN. CODE ANN. 10D-3.062 (1987).

36. FLA. STAT. § 384.23 (1986); FLA. ADMIN. CODE ANN. 10D-3.096 (1987).

37. FLA. STAT. § 384.25(2) (1986); FLA. ADMIN. CODE ANN. 10D-3.097-.099 (1987).

38. FLA. STAT. ANN. 384.25(2) (West Supp. 1987); FLA. ADMIN. CODE ANN. 10D-3.097-.099 (1987).

39. FLA. ADMIN. CODE ANN. 10D-3.098 (1987).

40. FLA. STAT. ANN. § § 381.411, 384.25(3); FLA. ADMIN. CODE ANN. 10D-

Once a notifiable disease is reported, the County Public Health Unit Director is authorized to take whatever action he deems necessary in order to conduct an investigation of the case. The County Public Health Unit Director may examine the patient to verify the diagnosis, investigate the source of infection and act to prevent or control spread of the disease.⁴¹

Data reported on AIDS cases assists HRS in conducting its investigation of cases as part of its surveillance program. "AIDS surveillance is the systematic collection, compilation and analysis of AIDS morbidity and mortality data. Moreover, surveillance involves dissemination of these data and interpretations to those who have contributed and to those who need to know."⁴² Data collected in the surveillance program is used for reports to the Centers for Disease Control, statistical summaries, research, and to assist federal, local and state health officials in understanding and controlling the spread of the disease. Under the HRS surveillance and investigation program for AIDS cases, investigations are conducted primarily on cases where AIDS is listed on the death certificate as the cause of death and no previous report had been submitted; in AIDS cases that were reported, without providing sufficient information as to the risk factors present that may have given rise to the disease; to obtain dates of transfusions for all transfusion associated cases; and to determine the risk factor when the cause of AIDS is reported in a case to be "heterosexual relation with a person with a risk factor for AIDS" and that risk factor is not identified in the report.⁴³

2. *Contact Investigation*

HRS may interview or cause to be interviewed, all persons suspected of having a sexually transmissible disease (STD) or all persons infected with an STD. In cases where contact investigations are initiated, HRS staff must first attempt to consult with the physician submitting the report.⁴⁴ However, although AIDS, ARC and HIV infection are designated STDs, only AIDS and ARC are required to be

3.102 (1987).

41. FLA. ADMIN. CODE ANN. 10D-3.073 (1987); FLA. STAT. §§ 381.031, 381.231 (1985); FLA. STAT. ANN. § 384 (West Supp. 1986).

42. HRSM 150-30, Section 6-1, Feb. 1987.

43. HRSM 150-30, Section 6-5, Feb. 1987.

44. FLA. STAT. § 384.26 (1986); FLA. ADMIN. CODE 10D-3.096.

reported.⁴⁵ At this time, contact investigations of AIDS, ARC and HIV positive cases in Broward are done purely on a voluntary basis when the patient requests the county public health unit's assistance. The proposed Broward County Public Health Unit STD policy for contact investigation and partner notification states as follows:

The primary focus of post-test counseling will be to encourage the patient to refer his own partners in for testing and counseling. The role play conducted by the Disease Intervention Specialist (DIS) will provide the patient with productive tactics for this effort. The DIS, without pressure, will attempt to get the names of the contacts and will encourage the patient to refer all needle sharing and/or sex partners from the past year. The patient will be issued referral cards, as used at every test site throughout Florida. Should the patient decide that he does not wish to do the partner referral himself, but wants it done for him, the DIS will offer his assistance. However, this assistance will be rendered **ONLY** at the **EXPRESS REQUEST** of the patient. If the patient does not want them notified at all the DIS will immediately drop the matter.

Partners will be notified of exposure in only a face to face setting. The telephone may be used **ONLY** to set up a face to face meeting. Furthermore, we will only follow those contacts for whom we have very definite and specific location and identity, this data must be specific beyond a shadow of a doubt.⁴⁶

3. *Testing and Treatment*

The question of testing for AIDS has been widely misunderstood by the public and by some health professionals. The diagnosis of AIDS is a medical diagnosis. There is no single test for AIDS. The test commonly referred to as the "AIDS Test" is a test for the antibody to the Human Immune Deficiency Virus (HIV), called the Enzyme Linked Immunosorbent Assay (ELISA) test. An antibody is merely a marker or indicator of infection. A positive ELISA test, when repeatably positive and combined with another test, such as the Western Blot test, has been found to be of considerable clinical significance and presumptive of infection. However, false positives and false negatives do occur and

45. FLA. STAT. §§ 384.23 and 384.25 (1986); FLA. ADMIN. CODE ANN. 10D-3.097-.099 (1987).

46. July 10, 1987 HIV Testing, Counseling and Partner Notification Memorandum from Tony Drew, STD Program Director, District 10, BCPHU.

the predictive value of the test in low risk populations is poor. The antibody test for HIV virus was licensed in 1985 for the sole purpose of screening the nation's blood supply. Anonymous testing sites were set up around the nation to provide at risk individuals with an alternative to using blood banks for testing.⁴⁷

While calls for mandatory testing for all or certain groups are generally not regarded as appropriate by public health authorities, expanded applications of testing are recommended.⁴⁸ Testing and counseling are felt to be the only weapons we have at this time for controlling the spread of infection, since we have no specific treatment and no vaccine. Testing is recommended for persons considered to be at risk from infection, including men who have had sex with another man in the last ten years, persons diagnosed with a sexually transmitted disease, intravenous drug users, prostitutes and their sex and needle sharing partners. Classically, in venereal disease and tuberculosis control, intense tracing and treating of contacts has been done. The efficacy of this technique in the control of AIDS is not clear, but limited voluntary referral of sexual and needle sharing partners of those found to be infected is being undertaken in many areas, including the Broward County Public Health Unit. While some continue to feel that anonymous testing is preferable to confidential testing, confidential testing is necessary if any followup of positives or partner notification is to be done.

In most cases, perhaps excluding the willful agent of disease, testing should not be undertaken unless there is full and specific informed consent of the individual to be tested. No testing should be done without the use of high quality laboratory backup, proper interpretation of tests and especially without proper pre and post test counseling. The counseling and educational message is, in fact, the major public health strategy in terms of attempting to prevent spread of the infection. Testing must have some legitimate public health rationale. Testing of food handlers is not appropriate, for example, since HIV infection is not spread through the foodborne route. Testing as a condition of employment or of school children is also not appropriate since spread through casual contact is not expected.

The major intervention we have now to prevent spread of HIV in-

47. FLA. STAT. § 381.606 (1985).

48. Public Health Service Guidelines for counseling and antibody testing to prevent HIV infection and AIDS. Morbidity and Mortality Weekly Report vol. 36, no. 31, Centers for Disease Control, Aug. 14, 1987

fection is education. Anything that can be done to motivate infected persons and uninfected persons at risk to modify their behavior should be done.

Florida law grants the Department powers to seek mandatory tests under certain circumstances. HRS may examine or cause to be examined, persons who are suspected of either being infected or exposed to a sexually transmissible disease.⁴⁹ The law further requires that persons with a sexually transmissible disease must report for complete treatment to a physician or submit to treatment at a county public health unit or other public facility, until the disease is noncommunicable.⁵⁰ However, a person may not be apprehended, examined or treated against his will unless HRS first obtains a warrant. In order to obtain a warrant for involuntary testing and treatment, HRS must show by a preponderance of the evidence that a threat to the public's health and welfare exists unless such warrant is issued *and* that no other less restrictive alternative exists.⁵¹ A warrant may also be obtained to involuntarily examine "any person or inmate who injures a law enforcement or correctional officer or firefighter or paramedic acting within the scope of employment. Evidence of injury and a statement by a licensed physician that the nature of the injury is such as to result in the transmission of a disease covered by this act shall constitute probable cause."⁵²

Recently in the State of Washington, mandatory testing was considered for certain groups, among them, "marriage license applicants, all state prisoners, those in drug treatment programs, convicted prostitutes, pregnant women, those seeking inpatient or outpatient health care or sexually transmitted disease treatment, food service and health care workers."⁵³ After considering all these options, the Washington State AIDS Task Force recommended mandatory testing only for convicted sex offenders. The Washington AIDS Task Force recommendations differ greatly from actual and proposed legislation in Florida.

There is no specific provision for mandatory testing of food service workers, health care workers, those seeking inpatient or outpatient care or those in drug treatment programs in Florida. There has been no provision for any kind of mandatory testing of marriage license applicants

49. FLA. STAT. § 384.27 (1986).

50. FLA. STAT. § 384.27(2) (1986).

51. FLA. STAT. § 384.27(3) (1986).

52. FLA. STAT. § 796.08(5) (1986).

53. AIDS POLICY AND LAW, Dec. 16, 1987, Vol. 2, No. 24.

since 1986 when the statute that required mandatory screening for STD's was repealed.⁵⁴ However, presently pending before the Florida legislature is a pre-filed bill that, if enacted, would require premarital tests for AIDS.⁵⁵ The bill requires persons applying for a marriage license to obtain physician certification that the applicants were tested and found not to be infected with the AIDS virus.⁵⁶ If one or both applicants have been found to be infected, the marriage license could only be issued by a county court judge or circuit court clerk "if the judge or clerk is satisfied by affidavit or other proof that both parties are aware that one or both parties are infected with the AIDS virus, provided that all other requirements of the marriage laws have been complied with."⁵⁷ Copies of the physician's certificate and laboratory reports shall be distributed to "the offices of all county court judges and clerks of the circuit courts, and to all laboratories, hospitals, or clinics in the state." In cases where the applicants have positive test results and must apply to obtain the license from the county court judge or circuit court judge, copies of "the evidence utilized in lieu of the physician's certificate" shall be transmitted to the Department of Health and Rehabilitative Services. The Department of Health and Rehabilitative Services shall be authorized to use the information received for such follow-up procedures "as are deemed necessary by said department for the protection of the public health." The bill also provides for confidentiality and destruction of records, limits the validity of marriage licenses to 30 days from the date of issuance and provides for criminal penalties for non-compliance and for breaches of confidentiality.⁵⁸ The bill is scheduled for review during the 1988 session of the Florida legislature. If enacted, the bill will take effect on October 1, 1988.

Section 384.31, Florida Statutes, 1986, requires mandatory screening of pregnant women for those STDs specifically designated by HRS rule. However, the HRS rule requires only screening for syphilis, and not for AIDS or any other STD.⁵⁹

HRS, at its discretion, may enter any state, county or municipal

54. Domestic Relations Act, FLA. STAT. § 741.051 (1985), repealed by Ch. 86-220, § 91 (1986).

55. Ref HB33 Fla. House of Representatives, 1988 by Representative Diaz-Balart.

56. Ref HB33 same as (above 55) Section 1.

57. Ref HB33 § 1.

58. HB33.

59. FLA. ADMIN. CODE ANN. 10D-3.101 (1987).

detention facility for the purpose of examining and treating prisoners suffering from or suspected of having a sexually transmissible disease.⁶⁰

Since 1985, patients entering a forensic facility have been required to undergo, at the time of admission and at regular intervals thereafter, a physical examination which "shall include screening for communicable diseases."

In 1986, Florida enacted the only legislation that specifically singles out one group for mandatory screening. The act requires mandatory screening for designated sexually transmitted diseases for any person convicted of prostitution and, if infected, mandatory treatment and counseling as a condition of release from probation, community control, or incarceration.⁶¹ The Act further provides that persons arrested for prostitution may request screening for an STD and "if infected shall submit to appropriate treatment and counseling."⁶²

In 1987, HRS developed a policy for screening and treating clients in state operated residential facilities who may be infected with the HIV virus. The policy calls for selective screening of clients in mental hospitals, halfway houses, juvenile detention centers, training schools, residential facilities for the mentally retarded, childrens' foster homes and the tuberculosis hospital. Pursuant to the policy, HRS will provide placement for any client with AIDS who meets the criteria for being in a state facility. The policy provides for testing only those clients with symptoms of HIV infection, ARC or AIDS, clients with a history of "high risk" behavior and clients who ask to be tested. Under the policy, clients receive pre and post test counseling, and strict confidentiality guidelines will be followed. Informed consent and written authorization to perform the test must be obtained either from the client, his guardian or through the courts.⁶³ "The policy restricts patients as little as possible and provides lessons in infection control to all foster parents, clients and employees of state institutions."⁶⁴

Routine testing differs from voluntary testing in that "Patients are commonly invited to provide body fluids and blood samples without being given details of the tests proposed. Since a test for HIV is relevant to the patient's whole physical and mental health why should it not fall within the general consent? Perhaps because HIV infection remains in-

60. FLA. STAT. § 384.32 (1986).

61. FLA. STAT. § 796.08(3) (1986).

62. FLA. STAT. § 796.08(2) (1986).

63. HRSR 150-5, eff. Oct. 1, 1987.

64. Florida Public Health Advisory, HRS, Vol. 6, No. 1, Jan. 1988.

curable and potentially fatal; further, knowledge of it may destroy personal relationships, prospects of employment, chances of life insurance coverage, and so on. However, it is important to remember that the patient's troubles stem from the infection, not the diagnosis."⁶⁵ Given these concerns in HRS, no voluntary test is administered without the informed consent of the patient which includes pre and post test counselling and ancillary services.⁶⁶ The principles of informed consent apply even to minors. In Florida, minors have the right to seek services for STD without parental consent.⁶⁷ In the HRS policy for clients in residential facilities, the Department will seek the consent for HIV testing from the child when appropriate or from court or the child's guardian on a case by case basis. The consent for HIV testing will require a separate specific individual authorization. "The standard medical authorization signed by legal guardians when youngsters enter commitment programs and detention centers does not cover testing for HIV infection."⁶⁸

4. Quarantine

Quarantine, or more properly, medical isolation, is defined as confining the infected person from the uninfected. The HRS rules define quarantine as an official order that "limits the freedom of movement and actions of persons or animals which is deemed necessary in order to prevent the spread of a notifiable disease or other disease condition."⁶⁹ Classically, medical isolation was used in an effort to control leprosy — so-called leper colonies. Confining persons with tuberculosis, with or without their consent, was often done in the past and continues to be done today in Florida. It is doubtful that medical isolation was ever a major factor in controlling diseases and it is rarely used now, except for the occasional "willful agent of disease" or person who deliberately refuses treatment and exposes unsuspecting persons to disease. Medical isolation may have some application to prostitutes, for example, who know they are infected with the HIV virus and continue their activities. However, calls for isolating everyone who is infected with the virus are

65. *Medicine and the Law, Human Immunodeficiency Virus and the Law*, THE LANCET, July 25, 1987.

66. HRSM 150-30, Feb. 1987.

67. FLA. STAT. § 384.30 (1986).

68. Aug. 17, 1987, *AIDS Testing/Counseling Policy: Informed Consent*, Memorandum issued by Pat Shaughnessy, Senior Management Analyst II.

69. FLA. ADMIN. CODE ANN. 10D-3.081 (1987).

not founded in good public health rationale. Most individuals who are infected are not known to themselves or to public health authorities and the long natural history of the infection would lead to the impossible situation of isolating large numbers of people for indefinite periods of time. Given the nature of the disease and the fact no cure for it has yet been developed, current public health policy does not view widespread use of quarantine as an effective measure in the control of AIDS, ARC or HIV cases.

The difficulty of applying quarantine measures to the AIDS situation is that the traditionally quarantinable diseases, such as small pox, yellow fever and cholera, have a reasonably definable acute period of transmissibility, usually a number of days or weeks. Accordingly, the severe sanction of quarantining an individual would only need to be applied for a relatively short period. On the other hand, a person carrying the AIDS virus is thought to have the indefinite capacity to transmit the infection to others, leading health officials to re-examine how to apply the traditional quarantine powers to an individual with, perhaps, a lifelong infectious condition.⁷⁰

Chapter 381.031, F.S. authorizes HRS to declare, enforce, modify and abolish quarantines as circumstances indicate and further authorizes HRS to create rules that will control the spread of communicable diseases. HRS has promulgated rules setting forth quarantine procedures which provide that the County Public Health Unit Director shall have the authority to give public notice of quarantine and to initiate or terminate conditions of quarantine for purposes of controlling the spread of notifiable diseases or other infections.⁷¹ The County Public Health Unit Director has authority to resort to necessary legal proceedings for the control of notifiable diseases to obtain the compliance of persons who refuse to submit themselves to necessary inspection, examination, treatment or quarantine.⁷²

AIDS, ARC, and HIV infection are also designated as STD's under the 1986 Sexually Transmissible Disease Act which includes specific provisions enabling HRS to seek a court order to isolate a person

70. Gene W. Matthews, J.D., Verla S. Neslund, J.D., *The Initial Impact of AIDS on Public Health Law in the United States-1986*, JAMA, Jan. 16, 1987, Vol. 257, No. 3.

71. FLA. ADMIN. CODE ANN. 10D-3.074 (1987).

72. FLA. ADMIN. CODE ANN. 10D-3.075 (1987). AIDS is listed as a notifiable disease in FLA. ADMIN. CODE ANN. 10D-3.062 (1987).

or quarantine a place.⁷³ HRS has the power to order a person infected with a sexually transmissible disease to be isolated and to order a place where there is a significant amount of sexual activity likely to spread a sexually transmissible disease to be quarantined until such time as the condition can be corrected or the threat to the public's health eliminated or reduced. However, if HRS is required to seek a court order, it must show by clear and convincing evidence that the public's health and welfare are significantly endangered and that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists.⁷⁴ The statute is careful to clarify that its purpose is to provide a supplemental power to the department and should not be construed to restrain or restrict the HRS authority under other sections.⁷⁵

Presently, the 1988 session of the Florida legislature is considering a request from HRS to appropriate funds to establish "two hospital wards to isolate AIDS patients who continue to be sexually active or share needles."⁷⁶

HRS also recommended a procedure that would establish less restrictive alternatives for dealing with non-complaint carriers of the disease. The procedure proposed by HRS would have 3 levels of intervention:

"The first level, termed public health probation, would be at the discretion of a judge and would include specific conditions the AIDS patient would have to follow.

The second level would mean some form of home detention or placement in a supervised living facility, and the HIV carrier would be allowed to go outside only to work or go to church or school.

The most restrictive level would mean committing the person to a residential facility."⁷⁷

73. FLA. STAT. § 384.28 (1986).

74. FLA. STAT. § 384.28 (1986).

75. FLA. STAT. § 384.28(3) (1987).

76. AIDS Policy and Law, Volume 3, Number 2, February 10, 1988.

77. AIDS Policy and Law, Volume 3 #2, February 10, 1988.

5. *Sanitary Practices, Public Health Nuisances and Infection Control*

A traditional public health approach to controlling the spread of disease is through the use and enforcement of regulations and laws affecting sanitary practices. Florida has statutes, regulations and ordinances which deal with this aspect of public health control. Generally, the Department has the power to investigate sanitary conditions in any facility where those conditions threaten or endanger the public's health.⁷⁸ Specifically, HRS is authorized to investigate and take action to abate a sanitary nuisance under both state statutes and county ordinances.⁷⁹ A sanitary nuisance is generally defined as the "commission of any act . . . or the keeping, maintaining, propagation, existence, or permission of anything . . . by which the health or life of an individual or individuals may be threatened or impaired or by which or through which, directly or indirectly, disease may be caused."⁸⁰ Under state proceedings for the abatement of sanitary nuisances, once HRS has determined that a nuisance exists, it shall notify the responsible party that it has 24 hours to cease the activity which gives rise to the nuisance. If the nuisance is not abated within the time set by the county public health unit, the health unit may take action to remove the nuisance at the cost of the responsible party, institute criminal proceedings, civil legal proceedings under section 381.031 Florida Statutes, or institute administrative proceedings under section 381.112 Florida Statutes.⁸¹ Also, in Broward County the county public health unit has authority to enforce Broward County ordinances for the control of sanitary nuisances including removal of infectious waste and any conditions "which may threaten or impair the health or life of an individual, or group thereof, or which or through which, directly or indirectly disease may be caused."⁸² These local actions would be brought before the Broward County Health and Sanitary Control Board which has the power and authority to order such relief as it may deem necessary to enforce the provisions of the Broward County Code.⁸³ The powers of the Board include ordering an establishment closed, ordering the nui-

78. See FLA. STAT. §§ 381.031, 386.02 (1987).

79. BROWARD COUNTY CODE § 14.67 (1987), FLA. STAT. § 386 (1987).

80. FLA. STAT. § 386.01 (1987).

81. FLA. STAT. § 386.03(1) (1987).

82. BROWARD COUNTY CODE §§ 14.67-70 (1987).

83. BROWARD COUNTY CODE § 14.70 (1987).

sance abated, and issuing civil penalties against offenders.⁸⁴

Under the 1986 Sexually Transmissible Disease Act, the Legislature granted HRS the power to quarantine a place and make it off limits to the public to prevent the spread of an STD until such time as the condition can be corrected or the threat to the public health eliminated.⁸⁵ However, if a court order is required for the quarantine of a facility, HRS must show proof by clear and convincing evidence that the public's health is significantly endangered by a "place where there is a significant amount of sexual activity likely to spread a sexually transmissible disease" and that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists.⁸⁶ The statute is careful to point out that this section should not be used to restrain or restrict the Department in protecting the public health under other sections of law.⁸⁷

Provisions such as those cited above have been used in other jurisdictions in AIDS related matters to regulate the operation of places where multiple anonymous sexual encounters may occur such as peep shows and bath houses, and to shut down operations which are in continuous violation of the ordinances.⁸⁸ In a recent Indiana case, the federal district court held that a health department ordinance which strictly regulated the operation of peep shows was constitutional and not violative of free speech. The court reasoned that the ordinance did not ban the viewing of the films but "merely regulates the environment in which the viewing occurs", and should be upheld because it was designated to serve a substantial government interest in controlling the spread of AIDS.⁸⁹ In Dade County, Florida, the county public health unit issued warning posters to be displayed in similar establishments banning any sexual activity on the premises. The posters state "AIDS CRISIS NO SEXUAL ACTIVITY ALLOWED ON PREMISES". The mailing of the posters to bath houses and peep shows in the area along with cease and desist orders was followed by unannounced inspections to determine compliance and the threat of injunction for persistent violators.

84. BROWARD COUNTY CODE J§ 15.235 (1987).

85. FLA. STAT. § 384.28 (1987).

86. FLA. STAT. § 384.28(2)(a)(b) (1987).

87. FLA. STAT. § 384.28(3) (1987).

88. *Berg v. the Health and Hospital Corp. of Marion County, Indiana*, District Court Indiana, No. IP 86-442-C, Aug. 25, 1987, as cited in AIDS POLICY AND LAW, Vol. 2, No. 17, Sept. 9, 1987.

89. *Id.* See also, *City of New York v. New Saint Mark's Baths*, 497 N.Y.S. 2d 979 (N.Y. Sup. Ct. 1985).

One essential part of communicable disease control is the infection control procedures established in health care and other settings. Even though AIDS cannot be transmitted through casual contact, the possibility that puncture by a needle contaminated with blood from an AIDS patient could place the person at risk, however minimal, does exist. Therefore, precautions for dealing with, for example, the handling and disposal of infectious waste becomes very important. Aside from hospital and health facility self applied infection control procedures, the state, through HRS, has the authority to establish minimum standards for those procedures and to sanction those facilities that fail to employ them. Under various statutory and regulatory provisions, the Department has the power to regulate sanitary practices in places such as child care facilities;⁹⁰ food service establishments;⁹¹ hospitals;⁹² adult congregate living facilities;⁹³ nursing homes;⁹⁴ and laboratories.⁹⁵ These procedures, especially those in health care settings may account for the low infection rate reported among health care workers. Health care workers face an "extremely low risk of contracting AIDS on the job and that risk can be reduced even further by taking proper precautions."⁹⁶

The State also has the power to regulate admission standards to certain health care facilities to assist in the control of the spread of infection. For example, state rules which set the criteria for admission prohibit the placement of individuals suffering from communicable diseases into intermediate care facilities for the mentally retarded (ICFMR), medically complex cluster residential programs for the developmentally disabled, and adult congregate living facilities. Admission of such individuals is usually prohibited unless a physician certifies in writing, that the disease "does not significantly endanger other clients or staff."⁹⁷ Unfortunately, these rules prevented placement of per-

90. FLA. STAT. § 402.301 (1987). *See also*, FLA. ADMIN. CODE ANN. 5 § 10-M-12 (1987).

91. FLA. ADMIN. CODE ANN. 5 § 10D-13 (1987); BROWARD COUNTY CODE § 15.248 (1987).

92. FLA. STAT. 395; FLA. ADMIN. CODE ANN. 5 § 10D-28 (1967).

93. FLA. STAT. §§ 400.401-454 (1987). *See also*, FLA. ADMIN. CODE ANN. 5 § 10A-5 (1986).

94. FLA. STAT. §§ 400.011-346 (1987). *See also*, FLA. ADMIN. CODE ANN. 5 § 10D-29 (1987).

95. FLA. ADMIN. CODE ANN. 5 § 10D-41 (1986).

96. AIDS POLICY AND LAW, vol. 2 number 22, Nov. 18, 1987.

97. FLA. ADMIN. CODE ANN. 5 § 10D-94.005(4) (1986). *See also*, FLA. ADMIN.

sons with AIDS in Adult Congregate Living Facilities (ACLF's) when residential care was needed.

HRS is currently in the process of amending the rules governing Adult Congregate Living Facilities to allow the admission of a resident "who has no apparent infectious disease which is likely to be transmitted to other residents or staff."⁹⁸ Under the proposed rule, ACLFs may admit residents who are known to have HIV infection as long as the district medical review team certifies that the placement is appropriate and the prospective resident does not exhibit or engage in behavior which is likely to transmit the infection.⁹⁹ As a correlative measure, the Department amended ACLF rules on staffing standards to include a provision that requires infection control procedures training for employees who may come into contact with potentially infectious materials.¹⁰⁰ HRS also amended ACLF facility maintenance and housekeeping standards to require that facilities accepting HIV infected residents have adequate policies and procedures to properly identify, segregate and dispose of potentially infectious waste materials and to require these facilities to promptly clean and disinfect floors and other surfaces soiled by body fluids.¹⁰¹

One state rule dealing with the transport, storage and disinterment of dead human bodies requires that the bodies of those who die of specifically enumerated contagious diseases such as smallpox, bubonic plague, asiatic cholera or anthrax must be specifically interred in sealed containers. These regulations also list the precautions that must be taken to prevent the seepage of waste and fluids into the environment.¹⁰² While AIDS is not specifically mentioned in the rule, it is cited here as an example of the scope of public health regulation.

6. *Miscellaneous Provisions*

In 1987, the Legislature enacted a provision allowing the establishment of self-directed blood donor programs.¹⁰³ This section allows any resident of the State of Florida to participate in a program to donate his own blood in order to have it available for his own use or for

CODE ANN. 5 §§ 10A-5.0181, 10D-38.007 (4) (1986).

98. Proposed Rule 10A-5.0181.

99. Proposed Rule 10A-5.0181.

100. Proposed Rule 10A-5.019.

101. Proposed Rule 10A-5.022.

102. FLA. ADMIN. CODE ANN. 5 § 10D-37.014 (1986).

103. FLA. STAT. § 381.6015(2) (1987).

the use of a designated recipient at the time of a planned medical need. The blood is not to be administered to anyone other than the donor or his designated recipient, but reverts back to the use of the blood bank if not needed or in the case of a medical emergency.¹⁰⁴ The act became effective on October 1, 1987 and it is too early to tell whether its use will be widespread.

In 1986, the legislature enacted two statutes providing criminal penalties for persons who engage in sexual activity when they know that they have a sexually transmissible disease. Under the provisions of the Sexually Transmissible Disease Act of 1986, it is unlawful for a person who knows he is infected with HIV and who knows he may communicate the virus to another through sexual intercourse, to engage in sexual intercourse without first informing the other person of the presence of the HIV infection.¹⁰⁵ Also under a 1986 act relating to prostitution, any person who commits prostitution and who, prior to the commission of such crime, had tested positive for a sexually transmissible disease and knew or had been informed that he had tested positive, and that he could possibly communicate such disease to another person through sexual activity, is guilty of a misdemeanor of the second degree.¹⁰⁶ The statute further provides that the person may be convicted and sentenced separately for this violation and for the underlying crime of prostitution.¹⁰⁷ Since that provision is part of an act which mandates HIV screening for convicted prostitutes, and which mandates treatment and counseling as a condition of release from probation, community control or incarceration,¹⁰⁸ those who test positive upon original conviction and are subsequently arrested may be convicted under both sections and subject to additional criminal penalties.

The 1988 Florida legislative session will be considering the enactment of a bill that would raise the criminal penalty for prostitution to a third degree felony when the offense is committed by a person who knows he is HIV positive.¹⁰⁹ Third degree felonies are punishable by up to five years in prison and a maximum fine of \$5,000.00.¹¹⁰

104. FLA. STAT. § 381.6015(3) (1987).

105. FLA. STAT. § 384.24 (1987).

106. FLA. STAT. § 796.08(4) (1987).

107. *Id.*

108. FLA. STAT. § 796.08(3) (1987).

109. HB 236 amending 796.08, Fla. Stat., Fla. House of Representatives 1988, by Representatives Souto and Crotty.

110. FLA. STAT. 775.082-084, (1987).

B. Confidentiality

Whatsoever things I see or hear concerning the life of men, in my attendance on the sick or even apart therefrom, which ought not to be noised abroad, I will keep silence thereon, counting such things to be sacred secrets. —Hippocratic Oath

This section explores the confidentiality provisions in Florida law protecting a person's right to privacy which may be applicable to AIDS cases as they mainly relate to medical information. The law provides strict guidelines for release of information deemed confidential and where release is unauthorized, the law provides civil and criminal sanctions.

1. Medical Records

Section 455.241, Florida Statutes applies the confidentiality of a patient's medical records to records maintained by licensed health professionals. Section 455.241(2), Florida Statutes provides that a patient's record of examination or treatment provided by a health care practitioner (including those of physicians, osteopaths, chiropractors, podiatrists, naturopaths, optometrists, nurses, dentists, etc.), "shall not be furnished to any person other than the patient or his legal representative, except upon written authorization of the patient."¹¹¹ A written authorization is not required when the examination or treatment was procured by a third party with the patient's consent; or when compulsory examination is made pursuant to civil procedure rules or in a civil or criminal action, "unless otherwise prohibited by law." Medical records may be released upon the issuance of a subpoena only after notice to the patient "by the party seeking the records." Medical records may be released by and to certain agencies and medical or research groups for the purpose of advancing medical research or education pursuant to the provisions of Chapter 405, Florida Statutes.¹¹² However, the identity of the person treated or studied as part of the research program is confidential and cannot be revealed under any circumstances.¹¹³

111. FLA. STAT. § 455.241(2) (1987).

112. FLA. STAT. § 455.24(2).

113. FLA. STAT. § 405.03 (1987).

2. Blood Banks Records of Volunteer Donors

Records of volunteer blood donors held by a blood bank are confidential and not subject to discovery in a civil action where the patient contracted AIDS after receiving numerous blood transfusions as a result of injuries received in an automobile accident. In *South Florida Blood Service, Inc. v. Rasmussen*,¹¹⁴ the Third District Court of Appeal held that protecting the "free flow of donated blood" and the privacy interests of the donors outweighed Rasmussen's interest in seeking to prove causation. The decision was affirmed by the Florida Supreme Court which held that blood donors have a guaranteed right to privacy under the Florida Constitution, and that allowing the discovery sought by the patient would hinder blood donation.¹¹⁵

It should be noted, as the District Court of Appeal was careful to point out, that this decision may not apply to all the records kept by a blood bank and that a situation may arise where a plaintiff's interest may outweigh protected privacy interests. Should, for example, the plaintiff be a public health agency which was able to substantiate compelling public health reasons to seek donor information, the courts may be persuaded to order disclosure of the information.

3. Records of Hospitals and Other Licensed Health Facilities

Under the hospital licensure statute,¹¹⁶ a hospital patient's records are privileged and confidential and may not be disclosed without the patient's consent. Consent is not required when disclosure is made to hospital personnel in connection with the patient's treatment, to the Hospital Cost Containment Board or pursuant to a subpoena and proper notice to the patient in any civil or criminal action.¹¹⁷ HRS may examine a patient's hospital records for the purpose of epidemiological investigations. Any unauthorized disclosure by HRS agents which would identify an individual patient is a second degree misdemeanor.¹¹⁸

The Department rules setting forth standards for hospital licensure further require that the confidentiality of patient medical records be

114. 467 So. 2d 798 (Fla. 3d Dist Ct. App. 1985).

115. *Rasmussen v. South Florida Blood Service, Inc.*, 500 So. 2d 533 (Fla. 1987).

116. FLA. STAT. § 395.017(3) (1987).

117. FLA. STAT. § 395.017(3)(a)(c)(d) (1987).

118. FLA. STAT. § 395.017(4) (1987).

maintained.¹¹⁹ Violations of these rules may subject the hospital not only to a civil liability from the patient, but also to possible licensure sanctions.¹²⁰

In 1985, the confidentiality provisions of the Chapter were amended by the legislature to require licensed medical facilities to notify emergency medical personnel or their employer, of their exposure to a patient with a selected infectious disease when transporting or treating an ill or injured patient to that licensed facility.¹²¹ The "selected infectious diseases" were defined as: Acquired Immunodeficiency Syndrome; anthrax; syphilis in an infectious stage; diphtheria; disseminated vaccinia; Hansen's disease; hepatitis A; hepatitis B; hepatitis non-A, non-B; Legionnaire's disease; malaria; measles; meningococcal meningitis; plague; poliomyelitis; psittacosis; pulmonary tuberculosis; Q fever; rabies; rubella; typhoid fever.¹²² Notification must be made within 48 hours of a confirmed diagnosis.¹²³ Confidentiality must be maintained and the name of the patient cannot be disclosed.¹²⁴

Other health facility patient records may also be subject to statutory confidentiality restrictions. For example, the records of nursing home residents are confidential,¹²⁵ and subject only to release to a resident's spouse, guardian or responsible party unless expressly prohibited by a legally competent resident.¹²⁶ Information received by a home health agency cannot be disclosed without the patient's written consent.¹²⁷ The information contained in a hospice patient's records cannot be disclosed to anyone other than the patient or his family without written consent from the patient or his family.¹²⁸

119. FLA. ADMIN. CODE ANN. 5 § 10D-28.131(5) (1986).

120. FLA. STAT. § 395.003(7) (1987).

121. FLA. STAT. § 395.0147 (1987). *See also*, FLA. ADMIN. CODE 10D-28.131 (Mar. 1986).

122. FLA. ADMIN. CODE ANN. 5 § 10D-28.130(4) (1986).

123. FLA. STAT. § 395.0147 (1987). *See also*, FLA. ADMIN. CODE ANN. 5 § 10D-28.131(1)(2) (1986).

124. FLA. STAT. § 395.0147 (1987). *See also*, FLA. ADMIN. CODE ANN. 5 § 10D-28.131(5) (1986).

125. FLA. STAT. § 400.022(1)(h) (1987).

126. Ch. 87-302, Section 1, LAWS OF FLORIDA.

127. FLA. STAT. § 400.494 (1987).

128. FLA. STAT. § 400.613 (1987).

4. *Vital Statistics: Birth, Death and Marriage Records*

All information contained in birth records concerning paternity, marital status, and medical details is confidential and not open to inspection except for health research purposes as approved by HRS.¹²⁹ Birth certificates may be issued as authorized by HRS, only to the registrant if of legal age; to his or her parent, guardian, or legal representative; to any state or federal agency for official purposes upon approval of HRS; or pursuant to court order.¹³⁰ In a case where the press sought disclosure of birth information contained in a midwife's license application, the court interpreted the provisions of Section 382.35,¹³¹ to require the information to be exempt from the Public Records Act.¹³² The court refused to allow disclosure not only of the details of the childbirths attended by the applicant midwife, but of the names and addresses of the mothers as well.¹³³

The cause of death section on all death certificates is confidential and can be issued only to the registrant's immediate family or guardian; to the representative of the facility or guardian; to any agency of the state or federal government for official purposes, upon approval of the Department; or upon court order.¹³⁴ Additionally, the law applies to fetal death certificates, as the paternity, marital status and medical information of all fetal death records is also confidential.¹³⁵ Note, however, that if an autopsy is conducted, the autopsy report made by the medical examiner is a public record and open to inspection.¹³⁶

There are no similar confidentiality provisions under the Florida Vital Statistics Act protecting information contained in marriage license applications or certificates.¹³⁷ Until 1986, serological tests for syphilis and a doctor's certificate that the person tested was not infectious, were required to obtain a marriage license in Florida.¹³⁸ The

129. FLA. STAT. § 382.014(1) (1987).

130. FLA. STAT. § 382.025(2) (1987).

131. FLA. STAT. § 382.025 (1987).

132. See, FLA. STAT. ch. 119 (1987).

133. *Alice P. v. Miami Daily News, Inc.*, 440 So. 2d 1300 (Fla. 3d Dist. Ct. App. 1983), *rev. denied*, 467 So. 2d 697 (Fla. 1985).

134. FLA. STAT. §§ 382.008(5), 382.025(4) (1987). See also, FLA. ADMIN. CODE ANN. 5 § 10D-49 (1986). See also, *Yeste v. Miami Herald Publishing Co.*, 451 So. 2d 491 (Fla. 3rd Dist. Ct. App. 1984), *rev. denied*, 461 So. 2d 115 (Fla. 1984).

135. FLA. STAT. § 382.008(6) (1987).

136. FLA. STAT. § 406.11 and A.G.O. 078-23.

137. See FLA. STAT. ch. 382 (1987).

138. FLA. STAT. § 741.051, repealed by Ch. 86-223, Section 91, effective Oct. 1,

records of tests, laboratory reports and doctor's certificates were confidential under Section 741.0592, Florida Statutes. However, the tests and the doctor's certificate requirements were abolished by statute and presently marriage records would not necessarily contain medical information.¹³⁹

5. Communicable Disease Reports

AIDS has been a reportable disease in Florida since 1983.¹⁴⁰ Section 381.231, Florida Statutes and the rules contained in Chapter 10D-3.061 *et. seq.* Florida Administrative Code require health practitioners to report suspected or diagnosed cases of any disease on the notifiable disease list.¹⁴¹ The requirement for reporting certain diseases to the health unit is a narrow exception to the physician patient privilege. The statute specifically states, "a report submitted pursuant to the requirements for reporting notifiable disease shall not be considered a violation of the confidential relationship between practitioner and patient."¹⁴² Information contained in these communicable disease reports, however, is confidential *and* subject to disclosure "only when necessary to public health."¹⁴³

6. STD Cases

In 1986 the legislature enacted a complete revision of the Sexually Transmissible Disease (STD) statute,¹⁴⁴ in order to provide more flexibility in dealing with AIDS and other STDs. The legislature found that sexually transmissible diseases, by their nature, involved "sensitive issues of privacy" and stated its intent that all programs designed to deal with STDs "afford patients confidentiality" and provide patients with "a secure knowledge that information they provide will remain private and confidential".¹⁴⁵ The confidentiality provisions previously in force provided for disclosure of a person's STD record only with the person's

1986.

139. FLA. STAT. §§ 741.051 to 741.0593, repealed by Ch. 86-220, Section 91, effective Oct. 1, 1986.

140. FLA. ADMIN. CODE ANN. 5 § 10D-3.062(1)(a) (1986).

141. FLA. ADMIN. CODE ANN. 5 § 10D-3.062 (1986).

142. FLA. STAT. § 381.231(4) (1987).

143. *Id.* See also, FLA. ADMIN. CODE ANN. 5 § 10D-3.069 (1986).

144. See FLA. STAT. ch. 384 (1987).

145. FLA. STAT. § 384.22 (1987).

consent, pursuant to a court order or for the purpose of requiring the infected person to submit to testing and treatment.¹⁴⁶ Under the new law, all information and records held by the Department or its representatives relating to known or suspected cases cannot be released by the health unit or "by a court or parties . . . upon revelation by subpoena," except for specifically enumerated circumstances.¹⁴⁷ The circumstances under which disclosure may be made are: with the consent of all concerned; to appropriate medical personnel, state agencies or courts in order to enforce the provisions of the act; in a medical emergency; in child or adult abuse investigations conducted pursuant to Ch. 415, Florida Statutes; and for statistical purposes without identifying information.¹⁴⁸

If disclosure is made pursuant to a subpoena, the court must seal the information from further disclosure.¹⁴⁹ The statute further prohibits HRS employees or authorized representatives from being examined in civil, criminal, special, or other proceedings as to the existence or contents of pertinent records of a person examined or treated for a sexually transmissible disease by HRS, its authorized representatives, or of the existence or contents of such reports received from a private physician or private health facility, without the consent of the person examined and treated for such disease, except in proceedings to enforce the provisions of the Chapter.¹⁵⁰ Further, Section 384.26, Florida Statutes, prohibits the release of any information obtained in the course of a contact investigation except as provided in Section 384.29.

The Department's rules further define confidentiality and provide for the handling of sensitive protected information, such as maintaining the information in sealed envelopes marked "confidential".¹⁵¹

The confidentiality provisions of the STD statute are strictly interpreted by HRS. In a legal opinion issued on June 30, 1987, the HRS General Counsel advised the Department that Sections 384.26, .29 and .30, Florida Statutes, prohibited law enforcement agencies from unilaterally releasing to the public the antibody test results of a person arrested for prostitution.¹⁵² Strict enforcement of the confidentiality pro-

146. FLA. STAT. 384.10 (1977), repealed Ch. 86-220 (1986).

147. FLA. STAT. § 384.29(1) (1987).

148. *Id.*

149. FLA. STAT. § 384.29(2).

150. FLA. STAT. § 384.29(3).

151. See FLA. ADMIN. CODE ANN. 5 § 3.093-094 (1987).

152. HRS G.C.O. Opinion, June 30, 1987, *Confidentiality of Medical Records of Prostitutes*.

visions is also set out in the HRS "AIDS Policy For Screening and Treating Clients in HRS Residential Facilities." The Policy's confidentiality provisions state as follows:

"a. the results of HIV antibody tests are confidential and may not be publicly disclosed except with the client's written permission or as otherwise provided in Chapter 384, Florida Statutes.

b. The clients and, where applicable, their legal representatives shall be counselled on the meaning of the test results and future conduct to prevent spread of the virus.

c. Confidential medical information including HIV antibody test results may only be shared with employees of the department and its authorized representatives who are responsible for the custody, medical care and treatment of HRS residential clients and who have a need to know such information.

d. When a client is transferred from one facility to another the medical records of clients including AIDS, ARC, and HIV antibody positive data must be transferred in a sealed envelope marked confidential."¹⁵³ The policy further states that employees who violate confidentiality "shall be subject to disciplinary action, including dismissal, and to criminal penalties as specified in Chapter 384, Florida Statutes."¹⁵⁴

7. Confidentiality of Minors Under the STD Statute

The 1986 revision of the STD statute also includes a provision allowing the Department or any qualified health professional or qualified health facility to examine and provide treatment for sexually transmissible diseases to minors without the consent of the parent or guardian.¹⁵⁵ A minor's STD records are subject to the same confidentiality provisions as an adult. However, the legislature further extended the protection to include a prohibition against releasing the information to the minor's parent or guardian. In securing the minor's confidentiality, the statute prohibits the fact of consultation, examination, and treatment of a minor for a sexually transmissible disease from being divulged in any direct or indirect manner to a parent or guardian except as provided in Section 384.29.¹⁵⁶ The release of the protected informa-

153. HRSR 150-5, Sect. 8. a-d (Oct. 1, 1987).

154. HRSR 150-5, Sect. 9 (Oct. 1, 1987).

155. FLA. STAT. § 384.30(1) (1987).

156. FLA. STAT. § 384.30(2) (1987).

tion in an indirect manner was defined, by example, as sending a bill for services rendered to the parent or guardian.

8. *Confidentiality of HIV Tests at Alternate Test Sites*

Licensing of the ELISA test for HIV antibody has opened new concerns regarding confidentiality.

In 1985, the Florida legislature enacted laws which established a system of alternate test sites for voluntary serologic testing in response to the concern that high risk individuals would seek to donate possibly contaminated blood in order to obtain the test.¹⁵⁷ In its first piece of AIDS legislation, in which AIDS was never mentioned, the Florida legislature provided strict confidentiality provisions. The unauthorized disclosure of a test result to anyone other than the person receiving the test is a first degree misdemeanor.¹⁵⁸ The statute also prohibits the use of the test results for insurance or employment purposes and provides criminal penalties for violation.¹⁵⁹

HRS promulgated rules and guidelines for the administration and operation of the alternate testing sites which virtually guarantee the anonymity of the person seeking the test.¹⁶⁰ Even though alternate test site clients may be coming to physically the same place for health unit services and clinics, they go through a separate intake procedure for the Counseling and Testing Program (alternate test site). Under these procedures, no names or other identifying information are collected. Individuals are assigned identification numbers which are used on all records and blood specimens. The individual is given the number to use when securing test results.¹⁶¹ The individual must personally appear in order to obtain the test results and present both the written identification number and staff signature.¹⁶² The individual receives both pre-test and post-test counseling, a client information sheet, and ancillary services such as referrals for medical evaluation and other support services.¹⁶³ Under this program, identifying information about an individ-

157. FLA. STAT. § 381.606 (1987).

158. FLA. STAT. § 381.606(4)(a) (1987).

159. FLA. STAT. § 381.606(5) (1987).

160. FLA. ADMIN. CODE ANN. 5 § 10D-93 (1987). *See also*, Department of Health & Rehabilitation Services (Hereinafter HRS Manual) 150-30 (Feb. 1, 1987).

161. FLA. ADMIN. CODE ANN. 5 § 10D-93.064 (1985).

162. FLA. ADMIN. CODE ANN. 5 § 10D-93.067 (1985).

163. FLA. ADMIN. CODE ANN. 5 § 10D-3 et seq. (1987). *See also*, HRS Manual 150-30 (Feb. 1, 1987).

ual who has received the test cannot be compelled because it simply does not exist.

The alternate testing program at the Broward County Public Health Unit as well as the rest of the State of Florida, began in June, 1985. From June, 1985 to February 1, 1987, throughout the State of Florida, 15,756 persons have been counselled and tested. Of the number tested, 19% were positive for HIV antibody. Of those testing positive, 96% are between the ages of 20-49. The risk factors most often stated for men are: homosexuality, 45%; IV drug use, 19%; and sex with a high risk individual, 6.5%. Of the females, 9% were positive with the majority percent being between the ages of 20-49. Females related that sex with a high risk partner (50%) and IV drug use (24%) are their two greatest risk factors.¹⁶⁴

In Florida, and specifically in Broward County, there are two (2) systems for voluntary HIV testing: the voluntary anonymous alternate testing systems established by the HRS Secretary's declaration and operated at or under the direction of the health unit¹⁶⁵ and voluntary, confidential testing performed at the patient's request at private laboratories, hospitals, doctors offices, or public health clinics such as Maternity, STD, or family planning.¹⁶⁶ Only the tests performed at the alternate testing sites under the alternate testing program are anonymous. Voluntary tests conducted at other health facilities, whether public or private, become part of the patient's confidential medical record and are subject to disclosure only pursuant to the applicable confidentiality provisions discussed in this article.

In January, 1987, an expanded program for the testing and counseling of high risk clients at the sexually transmissible disease (STD), maternity and family planning clinics in county public health units was established by HRS.¹⁶⁷ The Broward County Public Health Unit began its program in late 1987. High risk clients are identified, counseled and offered the test. If the client agrees to be tested, the client must sign an informed consent document. The HIV test results are confidential, and

164. HRS Manual 150-30 § 5-1.

165. Section 381.606, FLA. STAT..

166. Possibly in recognition of the potentially devastating effect on the mental well being of a person who receives a positive HIV test result, a bill presently pending before the 1988 sessions of the Florida legislature seeks to require that facilities that conduct HIV testing, must provide psychological counseling and suicide prevention services to individuals receiving positive test results. (Ref. HB 17, Fla. House of Representatives, 1988 by Representative Gordon).

167. HRS Manual 150-30 § 5-20.

become part of the patient's medical record. The client receives pre and post test counselling, informational material on AIDS and referral cards. If the client refuses to be tested or does not want the test results to become part of his/her medical record, the client is referred for anonymous testing at the nearest anonymous testing site. When a request for records is received, the client is advised that a copy of the HIV test result is part of his/her medical record and will be released unless specifically noted by the client. The client must execute a "Release of Information Form" for each transfer of records outside HRS.¹⁶⁸ In the Broward County Public Health Unit the client must execute a separate authorization to release HIV test results as part of his/her medical record.

9. *Enforcement of Confidentiality Provisions*

The enforcement of confidentiality provisions takes on a three pronged approach: 1) prevention of the unauthorized release of confidential information through self enforcement and in intra agency procedures; 2) enforcement through the protection of the agency's confidential patient records when release is sought by outside sources; 3) enforcement of unauthorized release through civil litigation or criminal prosecution.

At the Broward County Public Health Unit, confidentiality is insured through a program of strict compliance with the confidentiality guidelines, staff education and the provisions of legal advice on any request for release of medical records. The legal counsel provides periodic training on confidentiality to existing staff as well as to new staff at the monthly Broward County Public Health Unit New Employee Orientation. Staff who violate confidentiality provisions are subject to immediate disciplinary action, including possible dismissal.¹⁶⁹ The health unit, as with the rest of HRS, follows "need to know" guidelines that were developed to prevent confidential information from being widely disseminated throughout the agency itself.

No record is released to third parties without the written consent of the patient. When records are subpoenaed, the legal office takes appropriate action to insure that the records are not disclosed unless the statutory requirements are met.

Since the various confidentiality provisions discussed in this article

168. *Id.* at § 31.

169. *Id.* at § 1-5.

place a duty on HRS to keep this information out of the media and the public, a violation of these provisions may subject the Department and the individual staff to litigation for monetary damages as well as possible criminal sanctions.

IV. Organizing the Community Response to AIDS

AIDS is a devastating disease not only medically, but in relation to a person's and sometimes a family's entire life. Such an effect is perhaps not surprising considering AIDS is a chronic, progressive and fatal disease which sooner or later disables and often bankrupts a person. Persons with AIDS also face discrimination and rejection due to the association of the disease in the minds of the public with homosexuality. Persons with AIDS often lose their jobs or become unable to work and therefore may lose their health benefits. Problems arise not only with health care, but in finding housing and support services. Clearly, there is a need in communities heavily impacted by AIDS, such as the South Florida area, to organize a response to the effects of the epidemic even as public health authorities continue to seek ways to control the continued spread of the infection.

The Association of State and Territorial Health Officials (ASTHO) has noted the need for community mobilization both at the State and local levels. Independent task forces were called by ASTHO to represent a variety of community interests, including health and legal professionals, representatives of groups at risk, community leaders, religious groups, civil rights organizations and elected officials. The full scope of a framework for a public health response includes surveillance for infection, targeted education efforts, education of the public, community mobilization, provision of care, planning and evaluation, testing and counseling, contact notification, laboratory capabilities and education and training of health professionals.¹⁷⁰

In Miami and Dade County, the Health Council of South Florida, Inc., a health planning agency, has played a leadership role in developing an organized response to AIDS on a community-wide basis. The Council involved nearly 150 persons in the planning process in 1985 and 1986 to produce a document entitled *AIDS IN SOUTH FLORIDA: A*

170. GUIDE TO PUBLIC HEALTH PRACTICE: STATE HEALTH AGENCY PROGRAM-MATIC RESPONSE TO HTLV-III INFECTION, Recommendations from a Consensus Conference Convened by the Association of State and Territorial Health Officials, March 4-5, 1986, Washington, D.C.

PLAN FOR ACTION. The document deals with topics such as public education and information, care and treatment, ethical and legal dilemmas and research and prevention. The report noted there was wide scale discrimination and alienation at a time when community support systems are needed most. A balancing of personal rights with public health objectives was addressed with personal rights considered paramount unless clear public health benefits would result. Education of the general public was seen as helping mitigate unnecessary fear and education of targeted groups at risk was seen as a public health measure to help prevent spread of infection. Gaps in the care and treatment network, including long term care and housing were identified.¹⁷¹

In the greater Fort Lauderdale and Broward County area, the Broward County Community AIDS Task Force was organized in September, 1985 by the Broward County Public Health Unit and by District 10 of the Florida Department of Health and Rehabilitative Services, to help develop strategies for dealing with various issues relating to AIDS, to serve as an advisory and coordinating body, and to organize a comprehensive network of service delivery providers. The Broward County Public Health Unit staffed the Task Force which addressed a number of the same issues addressed by the more formal group organized by the Health Planning Council of South Florida. The Task Force membership consists of a wide range of health care, legal and community representatives and has met its responsibilities with enthusiasm and dedication.

The Broward County Community AIDS Task Force, in order to address immediate issues and develop a plan of action, formed several subcommittees including: medical/hospital, mental health, dental, education, humanistic/legal and social services/housing. By the end of 1985, the Task Force had identified the following as key elements needing to be addressed by appropriate agencies:

1. A need for coordinated outpatient facility to diagnose and treat problems manageable outside a hospital setting. The network and facility, it was felt, should be developed in conjunction with the renowned AIDS facility operated by the Jackson Memorial Hospital in Miami.
2. The dental subcommittee, recognizing AIDS patients needing dental care had to go long distances out of the area for dental care, called for a locally based dental facility using volunteer dentists.

171. AIDS in South Florida: A plan for action. Health Council of South Florida, Inc., March, 1986.

3. The education subcommittee sought to identify areas where coordination of efforts can be achieved in order to provide consistent, accurate and sensitive information about AIDS to the public, health professionals and students. Specifically, the subcommittee recommended that a risk reduction campaign be organized in Broward County both with the general public and "at-risk" groups, and that the School Board of Broward County add a component on AIDS to their curriculum.

4. The social services subcommittee honed in on housing needs as the one major goal. The subcommittee called for efforts to develop options for special housing, such as Adult Congregate Living Facilities (ACLF's). This subcommittee also focused on developing a hospital discharge planning process for patients with AIDS.

5. The mental health subcommittee recognized many AIDS patients would seek help earlier if there was more dignity, sense of self-worth and caring involved. Recommendations focused on enhancing personal and support groups including those operated by the AIDS support group, Center One and increasing mental health support through existing providers.

6. The legal subcommittee addressed a number of areas including confidentiality, discrimination, and public health measures. This subcommittee was the most difficult one of the Task Force, due to the strong feelings and lack of agreement among its members. This subcommittee unanimously agreed to recommend strong confidentiality safeguards and proposed the mission statement subsequently adopted by the task force which came out against discrimination.¹⁷²

It should be noted that the Broward County Community AIDS Task Force has supported efforts by all agencies to implement a number of the proposals and has also declined to structure itself in a more formal fashion in contrast to community organizational efforts in Dade County. However, the Broward Task Force has had, in the authors' judgment, a very successful track record. The past two years have seen most of the Task Force's proposals implemented, with housing remaining tenuous and nursing home care nonexistent.

Citizen involvement has also been sought on a more informal basis by the Broward County Health Unit in consulting and informing interested persons and groups about the Unit's plans for anonymous testing sites and other public health policies and programs. It is felt that

172. Minutes of the Broward County Community AIDS Task Force, 1985-1987.

greater acceptance by the community will lead to better achievement of educational and public health objectives.

V. Care and Treatment Networks

As noted above, the Broward County Community Aids Task Force identified the need for a coordinated and comprehensive outpatient facility in late 1985. When the Robert Wood Johnson Foundation announced in early 1986 the availability of funds for comprehensive centers for the care of AIDS patients, an agreement was negotiated that the Public Health Trust/Jackson Memorial Hospital would be the applicant for both Dade County and Broward County, so as to foster the development of a regional approach to the care of persons with AIDS and to enhance the Broward County program through the association with a major teaching facility. Subsequently, the project was funded bringing a total of \$1,600,000 to the Broward County Public Health Unit over a four year period to develop the network and the outpatient capabilities needed to address the growing burden of AIDS on the health care and social service providers in the community. Additional funds have since been received from the State legislature and from the Federal government.

The multiple goals of the network can be summarized as development of a program which provides easy access to a comprehensive range of health care and supportive services in a variety of settings, and which will insure cost-effectiveness and treatment of a quality nature. The AIDS Care and Treatment Network provides for a specialized outpatient facility offering a range of services including screening and counseling, diagnostic evaluation, treatment and referral. Community based services, such as the AIDS support group, home health, hospice and mental health services, are provided by the respective agencies on site. Dental services are provided and represent the only such services for persons with AIDS in the area.

The Broward Network is now operational, and while it is too soon to evaluate what impact it is having on length of stays and admissions in local tax assisted hospitals, it is expected to have a positive impact. The network has enrolled approximately 209 patients for medical and dental care as of April 1988. The Broward County Public Health Unit has also become a distribution center for the drug zidovudine (AZT). The BCPHU leadership believes that the AIDS care and treatment network is a model system, not only for the care of persons with AIDS, but as a delivery system for public health care in general.

VI. Challenges for the Future

Major breakthroughs are needed in research on vaccines and effective treatments. Vaccines are probably a number of years in the future. Definitive treatments are complex and will need to not only control the virus infection but restore the immune system. We believe that expanded testing and counseling coupled with expanded reporting will be necessary to control further spread of infection for the foreseeable future. The nation will also have to grapple with the problems faced by insurance companies in insurance underwriting. Expanded worksite education — not testing — programs are necessary. Education of school children is controversial and sometimes inadequate, but is necessary. The health care burden will continue to grow.

In conclusion, a combination of intense research on vaccines and treatments coupled with appropriate use of public health and educational measures is necessary to bring this epidemic under control.